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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,730	01/17/2002	Brooks Edwards	9550-001-27	2580
7590	09/29/2005		EXAMINER	
Supervisor, Patent Prosecution Services PIPER MARBURY RUDNICK & WOLFE LLP 1200 Nineteenth Street, N.W. Washington, DC 20036-2412			CEPERLEY, MARY	
			ART UNIT	PAPER NUMBER
			1641	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/046,730	EDWARDS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	-
	Mary (Molly) E. Ceperley	1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 July 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,3-9,11-22,24-26 and 28-67 is/are pending in the application.  
4a) Of the above claim(s) 32-52 and 59-67 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3-9,11-22,24-26,28-31 and 53-58 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

Art Unit: 1641

**1)** A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on July 08, 2005 and April 11, 2005 have been entered.

**2)** The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**3)** Although specific claims may be discussed in the rejections below, these rejections are also applicable to all other claims in which the noted problems/language occur.

**4)** Claims 1, 3-9, 11-22, 24-26, 28-31 and 53-58 are again rejected under 35 U.S.C. 102(b) as being anticipated by Bronstein et al (US 5,849,495) for the reasons stated in paragraph **4)** of the December 10, 2004 final rejection.

**5)** Claims 1, 3, 8, 22-24 and 53-58 are again rejected under 35 U.S.C. 102(b) as being anticipated by Bronstein et al (US 5,335,596) for the reasons stated in paragraph **5)** of the December 10, 2004 final rejection.

**6)** Applicants' arguments of April 11, 2005 regarding these rejections were addressed in the advisory action of April 21, 2005 (see paragraphs **1)** and **2)**). Applicants have not further advanced prosecution by addressing the examiner's statements regarding **a)** the method of use limitation (see paragraph **1)** of the advisory action) and **b)** the lack of distinction, in fact, between the terms "probe" and "target" (see paragraph **2)** of the advisory action).

Art Unit: 1641

7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary (Molly) E. Ceperley whose telephone number is (571) 272-0813. The examiner can normally be reached from 8 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le, can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 19, 2005

  
Mary (Molly) E. Ceperley  
Primary Examiner  
Art Unit 1641